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| 09/706,660      | 11/06/2000  | Akihiko Mizutani     | JP919990207-US1     | 8588             |

7590

11/04/2003

Anne Vachon Dougherty Esq  
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EXAMINER

HARRY, ANDREW T

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 11/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/706,660

Applicant(s)

MIZUTANI ET AL.

Examiner

Andrew T Harry

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

The Examiner acknowledges the receipt of the Applicant's amendment filed August 19, 2003. All independent claims have been amended and claims 1-19 are currently pending in the application.

***Response to Arguments***

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by *Bark et al.***

**U.S. Patent 6,445,917 ("*Bark*").**

As pertaining to **claims 1-4, 13 and 17**, *Bark* teaches a wireless apparatus, method, and program storage device containing a program allowing the apparatus, in at least one node participating in a communication system, to initiate a search for a radio station during a multi-hop, ad-hoc communication session (see *Bark*, abstract, and col. 3, lines 29-44, and Fig. 2), comprising:

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signal monitoring component for detecting the strength of the communication signal (see *Bark*, col. 7, line 31-col. 8, line 55);

comparator component for comparing the detected strength of the signal to a predetermined reference and for generating a initiation signal to initiate said search when deterioration of the strength of the communication signal indicates the appearance of a new radio station (see *Bark*, col. 8, lines 28-55).

As pertaining to **claims 5-8, 14 and 18**, *Bark* teaches a wireless apparatus, method, and program storage device containing a program allowing the apparatus, in at least one node participating in a communication system, to initiate a search for a radio station during a multi-hop, ad-hoc communication session comprising (see *Bark*, abstract, and col. 3, lines 29-44, and Fig. 2):

interference detection component for detecting the intensity of interference in the session (see *Bark*, col. 7, line 31-col. 8, line 55);

comparator component for comparing the detected strength of the signal to a predetermined reference and for generating a initiation signal to initiate said search when increased intensity of interference indicates the appearance of a new radio station (see *Bark*, col. 8, lines 28-55).

As pertaining to **claims 9-12, 15 and 19**, *Raith* teaches a wireless apparatus, method, and program storage device containing a program allowing the apparatus, in at least one node participating in a communication system, to initiate a search for a radio station during a multi-hop, ad-hoc communication session comprising (see *Bark*, abstract, and col. 3, lines 29-44, and Fig. 2):

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signal monitoring component for detecting the strength of the communication signal (see *Bark*, col. 7, line 31-col. 8, line 55); and

comparator component for comparing the detected strength of the signal to a predetermined reference and for generating a signal to alter the frequency of said monitoring when deterioration of the strength of the communication signal indicates the appearance of a new radio station (see *Bark*, col. 8, lines 28-55).

As pertaining to **claim 16**, *Raith* teaches that said altering comprises increasing frequency of monitoring to search for radio stations when the signal strength is less than a predetermined reference and decreasing the frequency when the signal strength exceeds the predetermined reference (see *Bark*, col. 7, line 31-col. 8, line 55, clearly when more changes in parameters will trigger more frequent searches by the communications node).

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***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T Harry whose telephone number is 703-305-4749. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

ATH



*Marsha D Banks-Harold*

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